

REMARKS/ARGUMENTS

Claims 1-54 are pending in the application. Claims 38-54 were elected for prosecution in response to a restriction requirement, and claims 1-37 have been canceled without prejudice for protecting the subject matter thereof in a divisional patent application(s). By this amendment, claims 38, 48, and 49 have been amended, and new claims 55-58 have been added. The amendments to claims 38, 48, and 49 are to correct clerical errors.

Applicant believes the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

Claims 38-54 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,438,793 to Miner et al. Further, claims 38-54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Nos. 6,230,362 and 6,286,181 to Kasper et al. These rejections are respectfully traversed.

The Miner et al. and Kasper et al. references, hereinafter collectively referred to as the “references” or the “patents,” contain substantially the same, if not exact, disclosure with respect to the rejections of claims 38-54, and the remarks made by the Examiner in the Office Action for both grounds of rejection are identical. Thus, in the interest of brevity, the rejections will be addressed collectively below with the understanding that the remarks apply to both the 35 U.S.C. § 102(e) and 35 U.S.C. § 102(b) rejections.

The references disclose an upright extraction cleaning machine comprising a base module 14 that receives a facing 19 that defines a suction nozzle 34, which is disposed at a front portion of the base module 14 adjacent the surface being cleaned for recovering fluid therefrom. The suction nozzle 34 fluidly communicates with a tank assembly 50 mounted on the base module 14, and a vacuum source 40 draws working air through the tank assembly 50 and the suction nozzle 34 so that the recovered fluid flows from the suction nozzle 34 into the tank assembly 50.

The extraction cleaning machine further comprises a detergent supply tank 870 mounted on the base module 14 and a water reservoir in the form of a flexible bladder 120 housed within the tank assembly 50 on the base module 14. Detergent and water from the tank 870 and the bladder 120, respectively, are mixed together to form a cleaning solution that is heated by an in-line heater 54 and distributed to the surface to be cleaned through fluid dispensing nozzles 100 positioned behind the suction nozzle 34. A trigger assembly 430 disposed on a handle assembly 16 that is pivotally mounted to the base module 14 selectively supplies the in-line heater 54 with the cleaning solution. Operation of the trigger assembly 430 displaces a valve member in a trigger valve 134 to allow the cleaning solution to flow through the valve 134 to the in-line heater 54.

The extraction cleaning machine further includes a brush 206 located behind the fluid dispensing nozzles 100. The rotatably mounted agitation brush 206 is adapted for floor-responsive adjustment by a floating brush assembly 400. With the floating agitation brush assembly 400, the cleaning machine can adapt to varying carpet naps or other inconsistencies on the surface being cleaned; the rotating brush 206 can drop below the normal floor plane, for example, to provide contact with a bare floor. Further, rotation of the handle assembly 16 to an upright, storage position raises the brush 206 from contact with the surface to be cleaned. The handle assembly 16 operates in conjunction with an elevator assembly 410 mounted on the base module 14 for raising and lowering the brush 206. The elevator assembly 410 comprises an actuating arm 418 that interacts with the handle assembly 16 and a forward arm 404 with a ramped surface 414 that interacts with brush guards 466 of the brush 206. When the handle assembly 16 rotates to the upright position, the handle assembly 16 pushes the actuating arm 418 forward, which, in turn, moves the forward arm 404 and ramped surface 414 against the brush guards 466, thereby raising the brush guards 466 and the brush 206 (see Figures 5 and 6). Rotation of the handle assembly 16 from the upright position reverses the operation to lower the brush 206 into contact with the surface to be cleaned.

As the Examiner is undoubtedly aware, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single

prior art reference. As will be explained below, the references do not disclose every element in claims 38-54; therefore, the anticipation rejection must fail.

Claim 38 is an independent claim directed to a floor cleaner capable of cleaning both wet and dry floor surfaces. The floor cleaner comprises a base assembly including a nozzle assembly adapted to remove debris from a surface to be cleaned either in a dry suction mode or a wet suction mode and further including a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa. A handle is connected to the base assembly for manipulating the base assembly across a surface to be cleaned, and a recovery tank is carried by the handle. Further, an actuator on the handle is operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode or the wet suction mode.

Several differences exist between the references and claim 38. First, the patents do not disclose a nozzle assembly adapted to remove debris from a surface to be cleaned either in a dry suction mode or a wet suction mode. In the patents, the suction nozzle 34 operates in a single, wet mode. The specifications specifically state that the suction nozzle is “adjacent the surface being cleaned for recovering fluid therefrom” (Miner et al. col. 3, ll. 53-54; Kasper et al. ‘362 col. 4, ll. 64-65; Kasper et al. ‘181 col. 6, ll. 49-50). The recovery of fluid, *i.e.*, a wet suction mode, is the only operation described for the suction nozzle 34 in the references. Not only is a dry suction mode not taught in the references, but the suction nozzle 34 of the references is not suitable for dry suction as well. It is known in the extraction cleaning art that a suction nozzle adapted for wet suction is relatively narrow so as to concentrate the suction forces necessary to withdraw fluid from the surface to be cleaned. A relatively narrow suction nozzle, therefore, is not suitably sized, *i.e.*, is too narrow, for picking up debris associated with dry suction, which can be relatively large compared to the size of a suction nozzle adapted for wet suction. It follows that the references do not disclose a nozzle assembly adapted to remove debris from a surface to be cleaned either in a dry suction mode or a wet suction mode, as required by claim 38. Further, as the references do not disclose the claimed nozzle assembly adapted for the two modes, they also do not teach (1) a switch mechanism for selectively converting the nozzle

assembly from the wet suction mode to the dry suction mode and visa versa or (2) an actuator on the handle operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode or the wet suction mode.

Applicant notes that the Office Action contains no discussion of the claim limitations regarding the suction nozzle being adapted to remove debris from a surface to be cleaned either in a dry suction mode or a wet suction mode and the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode or the wet suction mode. With respect to the actuator, the Examiner states that "the actuator in the handle is (430) with a cable" (Office Action, pg. 3, ll. 1 and 10). The component 430 in the references, however, is the above-described trigger assembly, which functions to operate a fluid valve to control fluid flow to an in-line heater and has nothing whatsoever to with operating a switch mechanism for selectively converting a nozzle assembly from the wet suction mode to the dry suction mode and visa versa. The trigger assembly 430 is not operatively connected in any manner to the suction nozzle 34, much less conversion of the suction nozzle 34 between wet and dry suction modes, in the references.

Second, the patents do not disclose a recovery tank carried by the handle. In the references, the tank assembly 50 functions as the recovery tank, and the tank assembly 50 is mounted to the base module 14. In particular, "the base module 14 includes a lower housing portion 15 and an upper housing portion 17, which together define an interior for housing components and a well 730 for receiving a tank assembly 50" (Miner et al. col. 3, ll. 45-48; Kasper et al. '362 col. 4, ll. 56-59; Kasper et al. '181 col. 6, ll. 41-44). The tank assembly 50 is also clearly shown as mounted to the base module 14 in Figure 3. It follows that the patents do not disclose the recovery tank carried by the handle, as required by claim 38.

As the Miner et al. and Kasper et al. patents do not disclose a nozzle assembly adapted to remove debris from a surface to be cleaned either in a dry suction mode or a wet suction mode, a switch mechanism for selectively converting the nozzle assembly from the wet suction mode to the dry suction mode and visa versa, an actuator on the handle operably connected to the switch mechanism for selectively positioning the nozzle assembly in the dry suction mode or the wet

suction mode, and a recovery tank carried by the handle, the patents do not anticipate claim 38, and claim 38 is patentable over the Miner et al. and Kasper et al. patents. Further, claims 39-47 depend from claim 38 and are, therefore, are not anticipated by and are patentable over the Miner et al. and Kasper et al. patents for at least the same reasons as claim 38.

Claim 48 is another independent claim directed to a floor cleaner for wet scrubbing and wet pick up. The floor cleaner comprises a base assembly including a nozzle adapted to remove moisture and debris from a surface to be cleaned and an agitator for agitating the surface to be cleaned. The agitator is movable between a first position wherein the agitator is spaced from the surface to be cleaned and a second position wherein the agitator is adapted to agitate a surface to be cleaned. An actuator mechanism selectively controls the movement of the agitator between the first and second positions, and an actuator knob rotatably mounted on a handle connected to the base assembly is operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions.

The Miner et al. and Kasper et al. patents do not disclose each and every element of claim 48. In particular, the patents do not teach an actuator knob rotatably mounted on a handle connected to the base assembly and operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions, wherein the agitator is spaced from the surface to be cleaned and adapted to agitate a surface to be cleaned, respectively. The brush 206 in the references is mounted for floating on the surface to be cleaned during use of the extraction cleaning machine; in this mode, the brush 206 is always in contact with the surface to be cleaned while being able to adapt to varying carpet naps or other inconsistencies on the surface being cleaned. When the extraction cleaning machine is not in use, the brush 206 may be raised so as to be spaced from the surface to be cleaned upon rotation of the handle assembly 16 to the upright, storage position. Movement of the brush 206 to the raised position is accomplished by interaction of the handle assembly 16 with the elevator assembly 410 (described above) that is mounted to the base module 14. The elevator assembly 410 comprises arms and a ramped surface to accomplish movement of the brush 206, and these elements hardly amount to a knob. The references do not disclose any type of actuator knob for

moving the brush 206 between positions spaced from the surface to be cleaned and adapted to agitate a surface to be cleaned, much less such an actuator knob that is rotatably mounted to a handle, as specified in claim 48.

In the Office Action, the Examiner states that “the actuator in the handle is (430) with a cable” (Office Action, pg. 3, ll. 1 and 10). Applicant has established above that the component 430 in the references, however, is the trigger assembly that functions to operate a fluid valve to control fluid flow to an in-line heater. The trigger assembly 430 has nothing whatsoever to with an actuator knob rotatably mounted on the handle connected to the base assembly and operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions. The trigger assembly 430 is not operatively connected in any manner to the brush 206, much less movement of the brush 206, in the references.

The Examiner further avers that “the first and second positions can be anything such as moving or not moving” (Office Action, pg. 3, ll. 1-2 and 10-11). Applicant is unclear as to whether the Examiner is referring to the positions of the agitator in claim 48 or positions of the actuator knob, which are included in some of claims depending from claim 48. If the Examiner is referring to the positions of the agitator, this statement is clearly in error as the claim clearly specifies that the agitator is movable between a first position wherein the agitator is spaced from the surface to be cleaned and a second position wherein the agitator is adapted to agitate a surface to be cleaned. Thus, the positions are clearly defined in claim 48 and can not be “anything.”

The Examiner also notes that “these position limitations do not really claim any mechanism for accomplishing the positions the limitations do not even claim that the roller is moving on off the carpet [*sic*]” (Office Action, pg. 3, ll. 3-5 and 12-14). Claim 48 indeed calls for an actuator mechanism for selectively controlling the movement of the agitator between the first and second positions; a detailed description of a particular mechanism for controlling the movement of the agitator is not required in this claim. Furthermore, the limitations do claim that the agitator is movable relative to the surface to be cleaned as the first position has been defined in claim 48 with the agitator being spaced from the surface to be cleaned, and the second

position has been defined in claim 48 with the agitator adapted to agitate a surface to be cleaned, which would inherently require contact with the surface to be cleaned.

The Miner et al. and Kasper et al. patents do not disclose an actuator knob rotatably mounted on a handle connected to the base assembly and operably connected to the actuator mechanism for selectively moving the agitator between the first and second positions, wherein the agitator is spaced from the surface to be cleaned and adapted to agitate a surface to be cleaned, respectively, as required by claim 48 and thus do not anticipate claim 48. Claim 48 is therefore patentable over the Miner et al. and Kasper et al. patents. Further, claims 49-54 depend from claim 48 and are, therefore, are not anticipated by and are patentable over the Miner et al. and Kasper et al. patents for at least the same reasons as claim 48.

New claims 55 and 56 depend from claim 38, and new claims 57 and 58 depend from claim 48 through claim 49. These claims are believed to be patentable over the prior art for at least the same reasons set forth above with respect to claims 38 and 48.

If there are any outstanding issues which the Examiner feels may be resolved by way of telephone conference, the Examiner is cordially invited to contact the undersigned to resolve these issues. Early notification of allowability is respectfully requested.

Respectfully submitted,

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